

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2043 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO  
1 to 5 No

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VIRENDRA DAHYABHAI MEHTA

Versus

STATE BANK OF INDIA  
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Appearance:

MR MD PANDYA for Petitioner

MR PRANAV G DESAI for Respondent No. 1  
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CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 14/09/2000

C.A.V. JUDGEMENT

1. By way of this petition under Article 227 of the Constitution, the petitioner, a workman, challenges the order of the Labour Court, Ahmedabad in Reference (LCA) No.817 of 1976 insofar as the backwages are denied to him even as he is ordered to be reinstated by the respondent.

2. The impugned award had also been challenged by the present respondent in Special Civil Application No.1925 of 1982 and disposing the same on 22.1.1995, this Court (Coram: M.R.Calla, J.) has upheld the relief of reinstatement without backwages as granted by the Labour Court.

3. The learned counsel for the petitioner submitted that, in the facts of the present case, the respondent-management had sought to prove the charges stated in the discharge order at Ex.39 which came to be issued pursuant to a complaint of a lady officer. The respondent had taken the opportunity of proving the charges before the Labour Court during the course of the proceedings of the Reference case. And even after examination of the witnesses and due consideration of the same, the Labour Court has only reached a finding that the first and third charges as stated in the discharge order were not proved but only some aspect of charge No.2 had been proved by the management against the petitioner. The Labour Court has also considered the important fact that for the misconduct of using abusive language for the first time in the long career of 14 years of service of the petitioner, the order discharging him from service was not legal and proper. On this basis, it is submitted that when the order of discharging the petitioner was found to be illegal, improper and unjustified, the order to pay backwages ought to have followed as a natural corollary.

4. Going through the impugned award, it is clear that although the other two charges are held to have not been proved, there is a positive finding that the petitioner had spoken words of abuse against a female employee. It is also found to be an act of indiscipline at the work place deserving some punishment. It is, therefore, concluded that sufficient punishment could be meted out to the petitioner for the misconduct held to have been proved by not awarding any backwages to him even if he was ordered to be reinstated. In this view of the matter, the impugned award and order are made after due appreciation of the evidence and consideration of the rival contentions. There is no error of law or failure of justice as contended on behalf of the petitioner. The learned counsel for the petitioner has not relied upon any judgments and no one has remained present for the respondent.

5. Under the circumstances and for the reasons discussed above, there is no reason to interfere with the

impugned award in exercise of the powers under Article 227 of the Constitution. Therefore, the petition is dismissed . Rule is discharged with no order as to costs.

Sd/-

(KMG Thilake)

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